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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,631	04/11/2001	Robert K. Rowe	1023.1123101	1809
28075	7590	07/13/2004	EXAMINER	
CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420			CURTIS, CRAIG	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/832,631

Applicant(s)

ROWE ET AL.

Examiner

Craig Curtis

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) 8, 10, 12, 17, 20-28, 36, 41, 44-52 and 54-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-7, 9, 11, 13-16, 18, 19, 29-35, 37-40, 42, 43 and 53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8 January 2002</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Disposition of the Instant Application

- This Office action is responsive to Applicants' Remarks filed on 29 March 2004, which have been made of record in the file.
- Applicants did not amend the claims in said Remarks filed on 29 March 2004.
- Claims 1-62 are currently pending in the instant application, claims 8, 10, 12, 17, 20-28, 36, 41, 44-52, and 54-62 having previously been withdrawn from further consideration by the examiner as being drawn to non-elected inventions. Accordingly, claims 1-7, 9, 11, 13-16, 18, 19, 29-35, 37-40, 42, 43, and 53 alone will be examined as to their merits.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1-7, 9, 11, 13-16, 18, 19, 29-35, 37-40, 42, 43, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dewey Jr. (3,950,101) in view of Stafford (5,504,575) and Kumar (US 2003/0034281 A1) and Jorgenson et al. (5,835,645).**

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Dewey Jr. discloses the instant invention as claimed--a spectrometer system for performing spectroscopic determination on biological media, the spectrometer system comprising:

a light source for generating light (See 11 in Fig. 5);

an optical filter (14 or 114) positioned to receive light from said light source, the filter having a plurality (two or more) of bandpass regions (viz., 15, 17);

a sampler (viz., 40, 42; 45, 41) for transmitting the light into the sample and for receiving the non-absorbed light from the sample (see Fig. 5);

a detector (See 26 in Fig. 5) for receiving said non-absorbed light and for generating an electric signal indicative of the non-absorbed light,

wherein said spectrometer system has a signal-to-noise ratio (inherent), and wherein said optical filter is disposed adjacent said light source (See Fig. 5)--**EXCEPT FOR** explicit teachings of the following claimed limitations:

wherein said spectrometer system comprises an optical encoding unit positioned for encoding selected frequencies of light passing through the optical filter;

wherein said spectrometer system further comprises an optical integrating chamber wherein light reflected from the optical filter is substantially directed into the chamber and then reflected back to said optical filter, wherein said integrating chamber allows direct illumination of the filter from the light source; and

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wherein said integrating chamber is an orthogonal design to preserve angular qualities of the light entering said integrating chamber.

Stafford, however, provides a teaching of an optical encoding unit (see SLM 90 in, e.g., Fig. 3) positioned for encoding selected frequencies of light passing through the optical filter (id.); **Kumar** discloses a spectrometer system in which complex integrating sphere systems may be employed (see ¶ [0063] on p. 6); and **Jorgenson et al.** disclose a spectrophotometer (read: spectrometer) system in which filters corresponding to those recited in the instant invention are used (see, e.g., col. 7, ll. 52-61).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the invention of Dewey Jr. such that its spectrometer system further comprise the above-detailed elements, as respectively taught by Stafford, Kumar, and Jorgenson et al., for at least the purpose of optimizing the performance of said spectrometer system.

Response to Arguments

2. Applicants' arguments with respect to the claims, filed on 29 March 2004, have been fully considered but have been rendered moot in view of the new ground(s) of rejection.

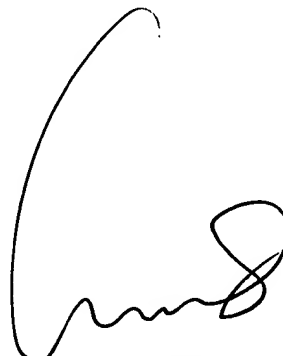
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Contact Information

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig Curtis, whose telephone number is (571) 272-2311. The centralized facsimile phone number for the USPTO is (703) 872-9306.

Any inquiry of a general nature regarding to status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-0956.

C.H.C.
Craig H. Curtis
Group Art Unit 2872
8 July 2004



Audrey Chang
Primary Examiner
Technology Center 2800